ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General
BRIAN D. BILL
Deputy Attorney General
State Bar No. 239146
Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6461
Facsimile: (916) 731-2117
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Sue Soo-Yun Yie, M.D.** **49 Milne Cove Road** **Carlisle, MA 01741-1203** **Physician's and Surgeon's Certificate No. A 80793,** Respondent.	Case No. 800-2019-062822 **A C C U S A T I O N**

PARTIES

1. William Prasifka (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about October 11, 2002, the Board issued Physician's and Surgeon's Certificate Number A 80793 to Sue Soo-Yun Yie, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2023, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2001.1 of the Code states:

Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

5. Section 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

6. Section 2227 of the Code states:

A. A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

B. Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

7. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence. (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

...

8. Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care.

...

9. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

//

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DEFINITIONS

11. As used herein, the terms below will have the following meanings:

Antipsychotic medications are a class of medications used to treat mental illnesses, primarily, the symptoms of psychosis, such as delusions and hallucinations. Formerly known as major tranquilizers and neuroleptics, antipsychotic medications are the main class of drugs used to treat schizophrenia. They are also the mainstay together with mood stabilizers in the treatment of bipolar disorder. Side effects from these medications include tremors, muscle stiffness, dizziness, weight gain, diabetes, agitation, sedation, repetitive involuntary movements, fever, and delirium.

Barbiturates are a class of medications that act as central nervous system (CNS) depressants, including sedative-hypnotics. They are used to help with sleep, relieve anxiety and muscle spasms, and prevent seizures. They are sold under various brand names, including: Fiorina®, Pentothal®, Seconal®, or Nembutal®. Barbiturates have definite potential for physical and psychological dependence and abuse. Barbiturates include Schedule II, III and IV controlled substances.

Benzodiazepines are a class of medications that act as a CNS that produce sedation, and hypnosis, and are used to treat anxiety, muscle spasms, and seizures. The most common benzodiazepines are the prescription drugs Valium®, Xanax®, Halcion®, Ativan®, and Klonopin®. Benzodiazepines are classified as Schedule IV controlled substances. Side effects include extreme drowsiness, confusion, impaired coordination, decreased reflexes, respiratory depression, coma, and possible death. Overdose effects of concomitant use of benzodiazepines and opioids include: Profound sedation, respiratory depression, coma, and death.

Functional Assessment Staging ("FAST") is a scale that measures a dementia patient's ability to function and perform tasks of daily living. The FAST scale divides the progression of dementia into seven stages: 1, or normally functioning adult; 2, or normally functioning senior adult; 3, early dementia; 4, mild dementia; 5, or mid-stage dementia; 6, or moderately severe dementia; and 7, severe (end stage) dementia. A score of 7 (i.e., the patient is unable to walk, the patient's speech is limited to fewer than 6 intelligible words during an average day, and is incontinent) is required for admission to hospice.

Haldol® is a brand name for haloperidol, which is an antipsychotic, first generation drug used for the treatment of schizophrenia and psychosis. It is a dangerous drug pursuant to Code section 4022.

Lorazepam is a benzodiazepine medication. It is used to treat anxiety disorders, trouble sleeping, active seizures including status epilepticus, alcohol withdrawal, and chemotherapy induced nausea and vomiting, as well as for surgery to interfere with memory formation and to sedate those who are being mechanically ventilated. It is sold under the brand name Ativan® among others. It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(16), and a dangerous drug pursuant to Code section 4022.

Opioids are a class of drugs used to reduce pain, including anesthesia, and include the illegal drug heroin, synthetic opioids such as fentanyl, and pain relievers available legally by prescription. Many prescription opioids are used to block pain signals between the brain and the body and are typically prescribed to treat moderate to severe pain. Side effects can include slowed breathing, constipation, nausea, confusion and drowsiness. Opioids are highly addictive and are a controlled substance.

Patient's Palliative Performance Scale ("PPS") is a scale that assesses a patient's functional performance and to determine progression toward end of life. The scale evaluates ambulation, activity and extent of disease, self-care, intake, and consciousness. Patients with a diagnosis of dementia and a PPS score of 40% or less may be appropriate for hospice care.

Phenobarbital is a barbiturate medication that is used to control seizures and relieve anxiety. It is occasionally used to treat trouble sleeping, anxiety, and drug withdrawal and to help with surgery. It works by slowing activity in the brain. This medication generally should not be prescribed to older adults because it is not as safe or effective as other medications that can be used to treat the same condition. Side effects include drowsiness, headache, dizziness, excitement or increased activity, slowed or difficulty breathing, fever, and confusion. It is sold under the brand name Luminal®. It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(26), and a dangerous drug pursuant to Code section 4022.

Seroquel® is a brand name for quetiapine, which is an atypical antipsychotic drug used for the treatment of schizophrenia, bipolar disorder, and major depressive disorder. It is a dangerous drug pursuant to Code section 4022.

FACTUAL ALLEGATIONS

Patient 1[1]

12. On or about December 5, 2018, Patient 1 (also "Patient"), an 82-year-old female, who was diagnosed with dementia, dysphagia (trouble swallowing), falls, hypertension, hyperlipidemia, and hypothyroidism., was admitted to Little Sisters of the Poor ("LSOP"), a long-term care facility in San Pedro, California.

13. On or about December 10, 2018, Physician 1, the Patient's primary-care physician at LSOP, ordered 12.5 mg of Seroquel® be administered to Patient 1 at bedtime for agitation.

[1] Numbers are used in lieu of names to address privacy concerns.

Physician 1 attributed the Patient's agitation to trouble adjusting to a new living environment, given the recent admission to LSOP. According to Patient 1's daughter, who served as her surrogate decision maker ("Surrogate"), Physician 1 stated that the medication would be needed for only a brief period to assist with an adjustment period (i.e., the new environment). A consent form signed by Patient 1's Surrogate approved the use of antipsychotic medications, namely Seroquel®.

14. On or about December 19, 2018, Physician 1 increased the Seroquel® dose to 25 mg at bedtime.

15. On or about December 26, 2018, Physician 1 increased the Seroquel® dose to 25 mg twice per day.

16. On or about January 6, 2019, Physician 1 increased the Seroquel® dose to 50 mg twice per day.

17. On or about January 11, 2019, Patient 1 was admitted to Providence Trinity Care Hospice ("Hospice"), where Respondent was the medical director.

18. Respondent's treatment note from January 11, 2019, does not contain results of neurological examination or indicate that one was conducted. Respondent documented that the Patient's PPS score was 40%. However, Respondent did not document whether the Patient's FAST score was determined. Additionally, Respondent prescribed the following:

A. Lorazepam .5 mg every four hours as needed to treat the Patient's "anxiety" related to the diagnosis of "Alzheimer's/dementia." The Surrogate signed an informed consent form approving the use of this medication. However, the Surrogate informed the Board's investigator that Respondent failed to inform her of the risks associated with the use of this medication or polypharmacy.

B. Haloperidol 2.5 mg every three hours as needed to treat the Patient's "agitation" related to the diagnosis of "Alzheimer's/dementia." The Surrogate signed an informed consent form approving the use of this medication. However, the Surrogate informed the Board's investigator that Respondent failed to inform her of the risks associated with the use of this medication or polypharmacy.

C. Morphine 7.5 mg every hour as needed "for severe pain or dyspnea." The medical record does not contain an informed consent form signed by the Surrogate that approved the use of this medication. Additionally, the record does not contain evidence that the Patient experienced either severe pain or dyspnea.

D. Seroquel 50 mg during the day and 75 mg at night.

19. Consent forms signed by the Patient's Surrogate approved the use of Seroquel, lorazepam, haloperidol and phenobarbital medications. However, the Surrogate informed the Board's investigator that Respondent failed to inform her of the risks associated with the use of such medications.

20. On or about January 12, 2019, Respondent increased Patient 1's Seroquel® to 50 mg in the morning and 75 mg in the evening. Respondent did not write a progress note on this date to justify the increase. The Surrogate signed an informed consent form approving the change in dose for this medication. However, the Surrogate informed the Board's investigator that Respondent failed to inform her of the risks associated with the use of this medication or polypharmacy.

21. On or about January 15, 2019, Respondent increased Patient 1's Seroquel® to 75 in the morning and 100 mg in the evening. Respondent's documented physical examination is identical to the physical examination section of the January 11, 2019 note and is devoid of the results of a neurological examination. The Surrogate signed an informed consent form approving the change in dose for this medication. However, the Surrogate informed the Board's investigator that Respondent failed to inform her of the risks associated with the use of this medication or polypharmacy.

22. On or about January 21, 2019, Respondent changed the phenobarbital prescription from 97.2 mg every night, to 97.2 mg every night as needed. There does not appear to be any rationale for this change. The note lacks any evidence that Respondent performed a neurological examination. The physical examination section of the progress note is identical to the notes written on or about January 11, 2019, and January 15, 2019.

23. On or about January 29, 2019, Respondent changed the phenobarbital prescription

from 97.2 mg every night as needed to 60 mg every night. The Surrogate signed an informed consent form approving the change in dose for this medication. However, the Surrogate informed the Board's investigator that Respondent failed to inform her of the risks associated with the use of this medication or polypharmacy.

24. On February 12, 2019, Respondent recommended that Patient 1 be transferred to a memory care unit (a type of long-term care facility that is designed to treat patients living with Alzheimer's disease or another form of progressive-degenerative dementia) because LSOP staff had difficulty managing Patient 1's behavioral issues. This was the last time the subject saw Patient 1.

25. On February 13, 2019, Patient 1's family revoked Patient 1's Medicare hospice benefits and she was voluntarily transferred to Torrance Memorial Medical Center ("TMMC"). A physical examination of Patient 1 revealed she was dehydrated, had a urinary tract infection, and had pneumonia.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

26. Respondent Sue Soo-Yun Yie, M.D. is subject to disciplinary action under California Business and Professions Code section 2234, subdivision (b) in that Respondent committed gross negligence in connection with her care and treatment of Patient 1. The circumstances are as follows:

27. The facts and circumstances alleged in paragraphs 11 through 25, inclusive, above are incorporated here as if fully set forth.

28. On or about January 11, 2019, and thereafter, Respondent committed the following gross negligence:

A. Respondent failed to adequately assess Patient 1, and/or failed to adequately document her assessment of Patient 1, including on each of the following occasions when she failed to adequately assess her (a) for admission to hospice; (b) for her behavioral problems before ordering antipsychotic mediations for her; and/or (c) for her neurological status.

B. Respondent failed to adequately and correctly score Patient 1's hospice eligibility criteria, and/or failed to adequately and accurately document her scores. Admission criteria for the Medicare Hospice Benefit requires either a score of 7 or higher on the FAST, or 40% or less on the PPS. Respondent did not score Patient 1 on the FAST, and incorrectly scored the Patient's PPS as 40%. Since Patient 1 ambulated and was not bed-ridden, a score of 40% was not possible[2].

C. Respondent failed to adequately obtain an informed consent from Patient 1 or her Surrogate, and/or failed to adequately and accurately document such informed consent, including, about the risks of taking antipsychotic medications, barbiturates, benzodiazepines, opioids, and/or polypharmacy.

D. Respondent prescribed medications, including antipsychotic medications, barbiturates, benzodiazepines, and/or opioids without indication to Patient 1. Respondent failed to justify the need for antipsychotic medications as Patient 1's medical records contain no evidence that the Patient suffered from psychosis (i.e., hallucinations, delusions, paranoia); therefore, an antipsychotic medication (Seroquel®) was not indicated for her. Further, Patient 1's medical records available to Respondent did not contain a history of seizures; consequently, it was unsafe to prescribe an antiseizure medication (Phenobarbital®) for the patient, a medication that is notorious for causing sedation and confusion in the elderly.

E. Respondent failed to maintain adequate and accurate medical records for Patient 1. Treatment records dated January 11, 15, and 21, 2019, each stated that it was an initial visit progress note, and included the same physical examination notes, and lacked a documented neurological examination. Neurological examinations should have been performed on Patient 1 due to her dementia, risk for falling and treatment with dangerous drugs, including Seroquel®, a medication that can cause tremors, rigidity of muscles, bradykinesia (i.e., slow movement), and postural instability.

---

[2] A score of 40% means that a patient is non-ambulatory and spending most of her time in bed.

F. Respondent failed to order consultations with specialists regarding the care and treatment of Patient 1, including a psychiatrist with expertise is antipsychotic medications to help her manage the patient who had become lethargic, confused, and less functional after increasing amounts of Seroquel®.

SECOND CAUSE FOR DISCIPLINE

(Inadequate and Inaccurate Medical Records)

29. Respondent Sue Soo-Yun Yie, M.D. is subject to disciplinary action under California Business and Professions Code, section 2266, in that Respondent failed to maintain adequate and accurate records of her care and treatment of Patient 1. The circumstances are as follows:

30. The allegations of the First Cause for Discipline are incorporated herein by reference as if fully set forth.

THIRD CAUSE FOR DISCIPLINE

(Prescribing Medication Without Proper Medical Indication)

31. Respondent Sue Soo-Yun Yie, M.D. is subject to disciplinary action under California Business and Professions Code section 2242, subdivision (a), in that Respondent prescribed dangerous medications to the Patient 1 without medical indication. The circumstances are as follows:

32. The allegations of the First and Second Causes for Discipline are incorporated herein by reference as if fully set forth.

FOURTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

33. Respondent Sue Soo-Yun Yie, M.D. is subject to disciplinary action under California Business and Professions Code section 2234, subdivision (c) in that Respondent committed multiple negligent acts in the course of treating Patient 1. The circumstances are as follows:

34. The allegations of the First, Second, and Third Causes for Discipline are incorporated herein by reference as if fully set forth. Respondent's acts and/or omissions as set forth in the First, Second, or Third Causes for Discipline, whether proven individually, jointly, or in any combination thereof, constitute repeated negligent acts.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 80793, issued to Sue Soo-Yun Yie, M.D.;

2. Revoking, suspending or denying approval of Sue Soo-Yun Yie, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Sue Soo-Yun Yie, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: AUG 24 2022

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

LA2021603620
65157630.docx